

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

|                                  |   |                           |
|----------------------------------|---|---------------------------|
| -----                            |   | X                         |
| PATRICIA ABRAHIM BARBOSA GARCIA, | : |                           |
| et al.,                          | : |                           |
| Plaintiffs,                      | : |                           |
|                                  | : |                           |
| -against-                        | : | <b><u>ORDER</u></b>       |
|                                  | : | No. CV-06-5964 (BMC) (JO) |
|                                  | : |                           |
| EXCELAIR SERVICE, INC., et ano., | : |                           |
|                                  | : |                           |
| Defendants.                      | : |                           |
| -----                            |   | X                         |
| MARIO DE ABREU LLERAS,           | : |                           |
| et al.,                          | : |                           |
| Plaintiffs,                      | : |                           |
|                                  | : |                           |
| -against-                        | : | No. CV-06-6083 (BMC) (JO) |
|                                  | : |                           |
|                                  | : |                           |
| EXCELAIR SERVICE, INC., et al.,  | : |                           |
|                                  | : |                           |
| Defendants.                      | : |                           |
| -----                            |   | X                         |
| <b>Cogan, D.J.</b>               |   |                           |

Plaintiffs’ motion to compel further answers to Requests for Admissions and Interrogatories and the Pilots’ cross-motion for a protective order are disposed of as follows:

The Pilots shall provide further responses to the Requests for Admission that are the subject of these motions. An overlap of discovery between the merits and the forum non conveniens motions is inevitable and these Requests do not pertain solely to the merits. “Participate” is neither so vague nor so broad that the Pilots are unable to respond. The term obviously refers to persons having a material role in the activity that is the subject of the Request, not a secretary, and not someone who the Pilots never heard of before this action. The Pilots likely know the identity of the principal people who

hired and trained them and the Requests have to be read in that light. However, even as reasonably read, the subject of some of these Requests may not be within the Pilots' first-hand knowledge, and if they are unable to admit or deny after reasonable investigation, then an appropriate response along that line will stand. The Pilots are cautioned that any such investigation must indeed be reasonable if they are going to stand on that type of answer.

The Interrogatories at issue shall be answered, subject to any privilege objections, but only to the extent specified at the bottom of page 5 of the joint letter. In other words, the Pilots shall not have to identify documents as the term identify is defined, but may refer to the general subject matter, approximate volume, and location of groups of documents. Again, the Pilots have an obligation to conduct a reasonable investigation in responding to these interrogatories, but if a reasonable investigation does not permit an answer, a response so stating will stand.

The Court cautions both sides that these issues should have been resolved without Court intervention and that subsequent disputes of this nature will not be received favorably.

Dated: Brooklyn, New York  
April 2, 2007

s/BMC  
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U.S.D.J.